

United States Court of Appeals
for the
District of Columbia Circuit



**TRANSCRIPT OF
RECORD**

TRANSCRIPT OF RECORD.

Court of Appeals, District of Columbia

OCTOBER TERM, 1905.

No. 1623.

401

No. 26, SPECIAL CALENDAR.

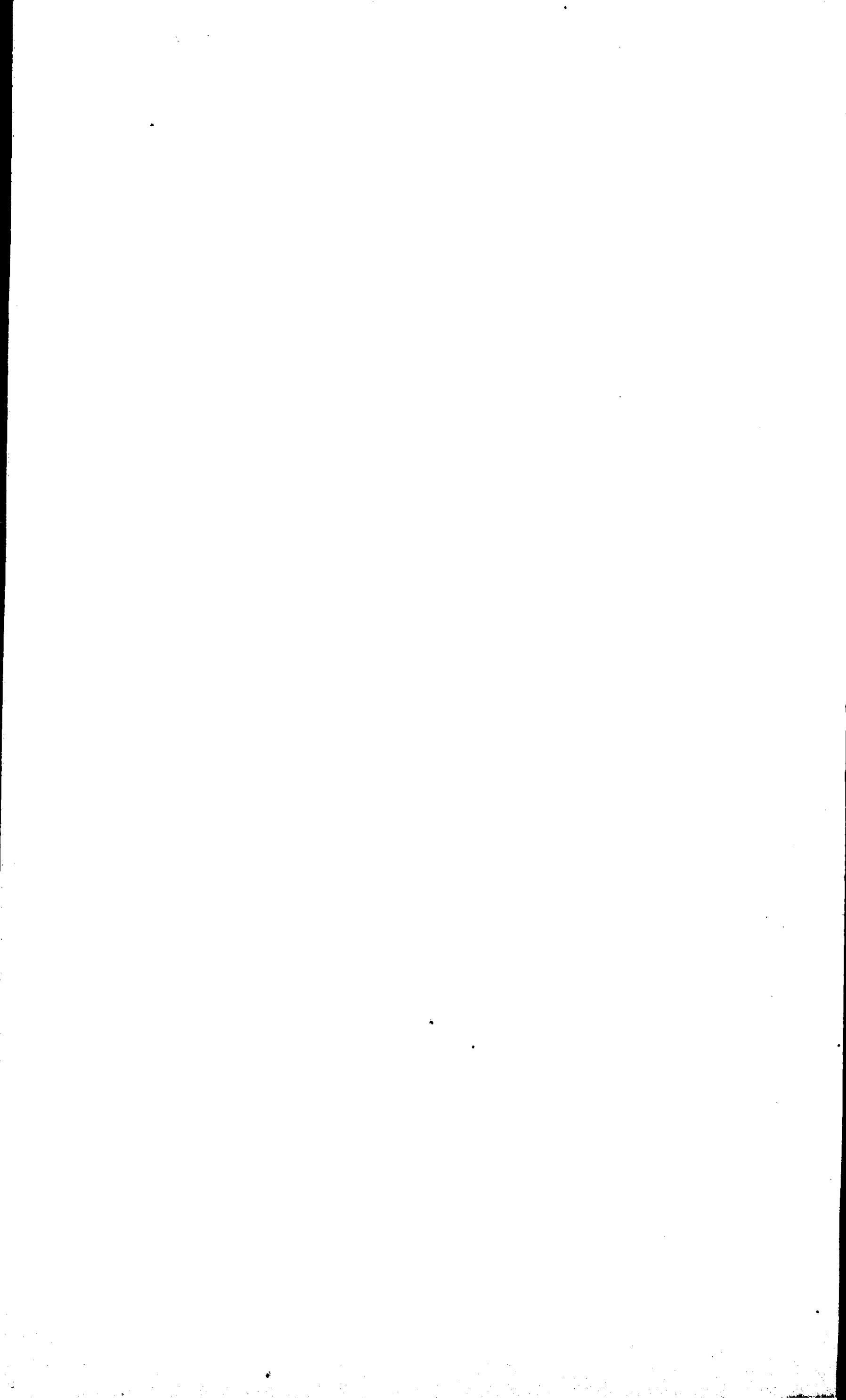
JASON W. GEIST, ALIAS JOSEPH GRAHAM, AND FRANK S.
RICHARDSON, APPELLANTS,

v.s.

UNITED STATES.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

FILED NOVEMBER 1, 1905.



COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

No. 5 Special Calendar **TERMINAL TERM, 1905.**

January Term 1906 **No. 1623.**

No. 26, SPECIAL CALENDAR.

JASON W. GEIST AND FRANK S. RICHARDSON,
APPELLANTS,

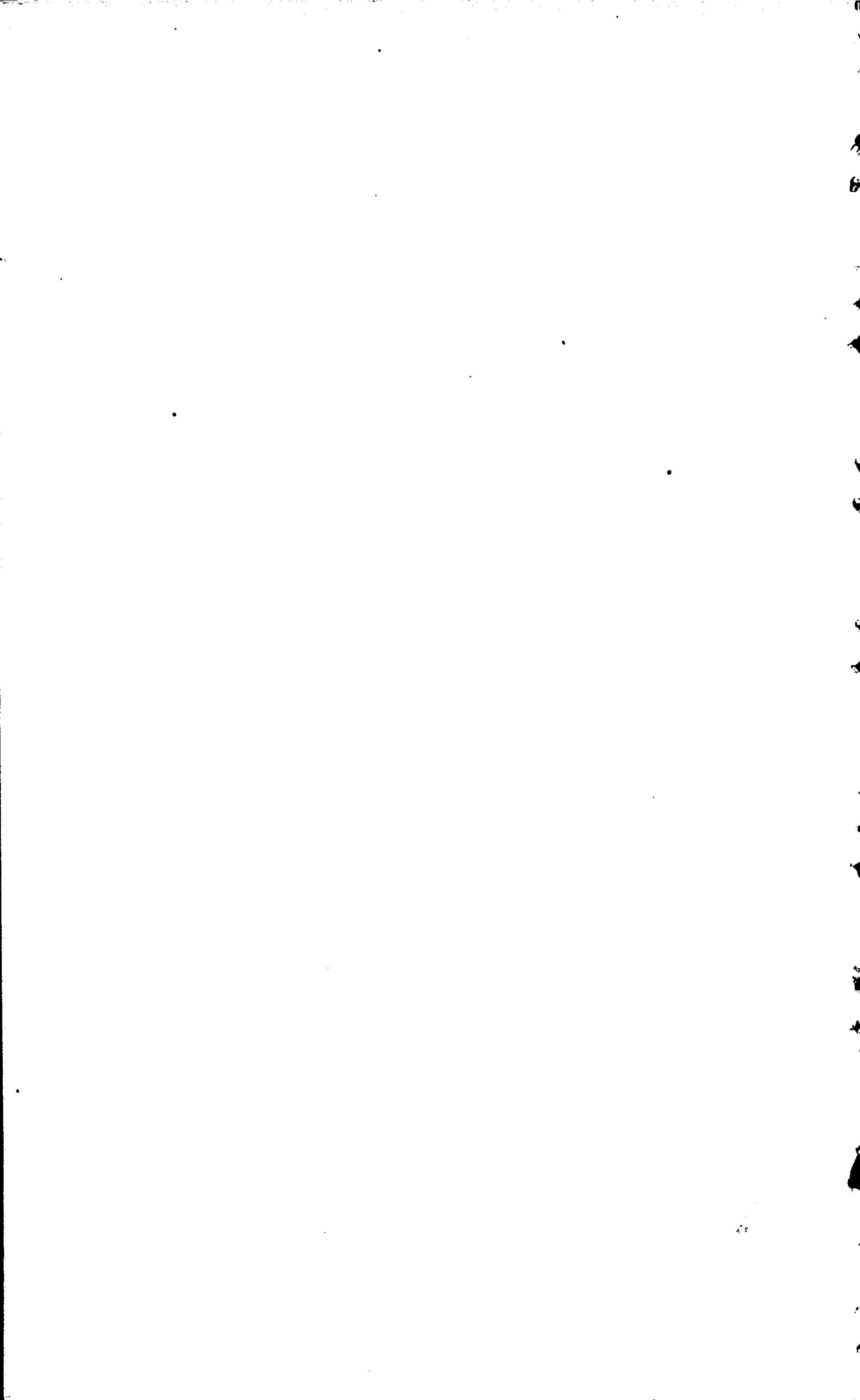
vs.

UNITED STATES.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

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In the Court of Appeals of the District of Columbia.

JASON W. GEIST ET AL., Appellants,
vs.
UNITED STATES. } No. 1623.

a Supreme Court of the District of Columbia.

UNITED STATES
vs.
JASON W. GEIST, alias JOSEPH GRAHAM, } No. 24519. Convicted
and Frank S. Richardson. } of Conspiracy.

UNITED STATES OF AMERICA, } ss :
District of Columbia,

Be it remembered, that in the supreme court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had, in the above-entitled cause, to wit:—

1 *Indictment.*

Filed in Open Court Nov. 22, 1904. J. R. Young, Clerk.

In the Supreme Court of the District of Columbia, Holding a
Criminal Term, October Term, A. D. 1904.

DISTRICT OF COLUMBIA, ss :

The grand jurors of the United States of America, in and for the District of Columbia aforesaid, upon their oath do present:

That one Jason W. Geist otherwise called Joseph Graham and one Frank S. Richardson, being persons of evil name and fame and dishonest conversation, wickedly devising and intending to unjustly and unlawfully by the offence of false pretense to cheat and defraud of their moneys and property one Basil B. Earnshaw, one Frederick S. Young and one Charles O. Young, partners trading under the firm name and style of the Carriage Repository Thomas E. Young, one William H. Veerhoff, one William J. Acker and one Franklin J. Acker, partners trading under the firm name and style of Acker and Company, and one William A. Engle, and divers other citizens

of the said District to the grand jurors aforesaid unknown, and the said Jason W. Geist otherwise called Joseph Graham, and said Frank S. Richardson, both late of said District, on the sixth day of August in the year of our Lord one thousand nine hundred and four at said District, did fraudulently and unlawfully conspire, combine, confederate and agree between and among themselves by said false pretense to cheat and defraud of their moneys and property the said Earnshaw and Carriage Repository, said Veerhoff, said Acker and Company, said Engel and said divers other citizens to the grand jurors aforesaid unknown, by then and there conspiring to falsely represent to said named persons and to said divers other citizens to the grand jurors aforesaid unknown, that they the said Geist otherwise called Graham and said Richardson were then and there the

2 collectors and representatives of J. H. Howard and Company of Chicago and New York, publishers of a certain gazetteer called "The Mercantile Gazetteer" and that said gazetteer was a genuine gazetteer published for general reference and which contained a carefully compiled list of the banks, manufacturers, merchants, wholesale and business interests of the principal cities and supply centers of the said United States, and that the said Earnshaw, said Veerhoff, said Acker and Company, said Engel, said Carriage Repository and said divers citizens to the grand jurors aforesaid unknown, had then and there contracted with said J. H. Howard and Company to advertise their said several businesses in said gazetteer and that said Geist otherwise called Graham and said Richardson were then and there authorized by said J. H. Howard and Company to collect certain moneys due for said advertisements in said gazetteer, the said Geist otherwise called Graham and said Richardson then and there well knowing on said day and year aforesaid at said District when they fraudulently and unlawfully conspired, combined, confederated and agreed between and among themselves as aforesaid to cheat and defraud by said false pretense the said Earnshaw, said Carriage Repository, said Veerhoff, said Acker and Company, said Engel, and said divers other citizens to the grand jurors aforesaid unknown of their moneys and property, that they the said Geist otherwise called Graham and said Richardson were not then and there the collectors and representatives of said J. H. Howard and Company, and then and there well knew that there was no such firm as J. H. Howard and Company of Chicago and New York, and then and there well knew that said "The Mercantile Gazetteer" was a false and fraudulent gazetteer and then and there well knew when they, the said Geist otherwise called Graham and said Richardson on said day and year

3 aforesaid at said District, conspired, combined, confederated and agreed between and among themselves to cheat and defraud by said false pretenses, that they conspired, combined, confederated and agreed together for the purpose of cheating and defrauding the said Earnshaw, by said false pretense, of his money and property, and for the purpose of cheating and defrauding the

said Veerhoff by said false pretense, of his money and property, and for the purpose of cheating and defrauding said Acker and Company by said false pretense, of their money and property, and for the purpose of cheating and defrauding said Carriage Repository by said false pretense of its money and property and for the purpose of cheating and defrauding said Engel by said false pretense of his money and property and for the purpose of cheating and defrauding by said false pretense said divers other citizens to the grand jurors aforesaid unknown, of their monies and property, and to effect the object of said conspiracy, the said Geist otherwise called Graham and said Richardson did then and there obtain from one Jackson Earnshaw, an employee of said Basil B. Earnshaw, the sum of fifteen dollars, the property of Basil B. Earnshaw; and did then and there obtain from one Paul F. Cain, an employee of said William H. Veerhoff, a certain check, the property of said Veerhoff, for the sum of nine dollars, dated August sixth, one thousand nine hundred and four and drawn on the National Bank of Washington, of said District, payable to order of J. H. Howard and Company; and did then and there obtain from said Frederick S. Young, a certain check dated August fourth one thousand nine hundred and four, drawn on the Lincoln national bank of said District, signed by said Frederick S. Young, and payable to order of J. H. Howard and Co. of the value of six dollars; and did then and there obtain from said William J. Acker a certain check dated August second, one thousand nine hundred and four signed by said William J. Acker, drawn on the Columbia National Bank of said District, payable to the order of J. H. Howard and Company for the sum of four dollars; and did then and there obtain from said William A. Engel the sum of nine dollars of the money of the said William A. Engel, and did then and there obtain from said divers citizens to the grand jurors aforesaid unknown, large sums of money; against the form of the statute in such cases made and provided, and against the peace and Government of the said United States.

Second Count.

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That the said Jason W. Geist otherwise called Joseph Graham and the said Frank S. Richardson being persons of evil name and fame and dishonest conversation, wickedly devising and intending to unjustly and unlawfully by the offence of false pretenses to cheat and defraud one Frederick S. Young and one Charles O. Young, partners trading under the firm name and style of the Carriage Repository — Thomas E. Young, of their moneys and property, the said Jason W. Geist otherwise called Joseph Graham and the said Frank S. Richardson, both late of the said District, on the fourth day of August in the year of our Lord one thousand nine hundred and four and at the District aforesaid, did fraudulently and unlaw-

fully conspire, combine, confederate and agree between and among themselves to cheat and defraud the said Frederick S. Young and the said Charles O. Young, partners as aforesaid of their moneys and property by then and there falsely representing to said Frederick S. Young that they the said Geist otherwise called Graham and the said Richardson, were then and there the collectors and representatives of J. H. Howard and Company of Chicago and New York, publishers of a gazetteer called The Mercantile Gazetteer and that the said gazetteer was a genuine gazetteer published by said J. H. Howard and

5 Company for general reference and which contained a carefully compiled list of the banks, manufacturers, merchants, wholesale and business interests of the principal cities and supply centers of said United States, and that the late Thomas E. Young, the father of the said Frederick S. Young had contracted with said J. H. Howard and Company for and in consideration of the sum of six dollars, to advertise the business of said Young in the said The Mercantile Gazetteer, and that they the said Geist otherwise called Graham and the said Richardson were then and there authorized by said J. H. Howard and Company to collect the said sum of six dollars for said advertisement from the said Frederick S. Young, the said Geist otherwise called Graham and the said Richardson then and there well knowing on said day and year aforesaid at said District, when they fraudulently and unlawfully conspired, combined, confederated and agreed between and among themselves as aforesaid, to cheat and defraud said Frederick S. Young and said Charles O. Young, partners as aforesaid, of their moneys and property, by said false pretenses that they the said Geist otherwise called Graham and the said Richardson were not then and there the collectors and representatives of the said J. H. Howard and Company of Chicago and New York and then and there well knew that there was no such firm as J. H. Howard and Company of Chicago and New York, and then and there well knew when they the said Geist otherwise called Graham and the said Richardson on the said day and year last aforesaid and at said District, conspired, combined, confederated and agreed together to cheat and defraud by said false pretenses that they the said Geist otherwise called Graham and the said Richardson, conspired, combined, confederated and agreed together for the purpose of cheating and defrauding the said Frederick S. Young

6 and said Charles O. Young, partners as aforesaid of their moneys and property, and to effect the object of said conspiracy the said Frank S. Richardson did then and there obtain by said unlawful conspiracy and said false pretense, from the said Frederick S. Young, a certain other check dated August fourth, one thousand nine hundred and four, drawn on the Lincoln National Bank of said District, for the sum of six dollars, made payable to the order of J. H. Howard and Company and signed Thomas E. Young by Frederick S. Young; against the form of the statute in such case,

made and provided, and against the peace and Government of the said United States.

MORGAN H. BEACH,

Attorney of the United States in and for the District of Columbia.

(Endorsed :) No. 24,519. United States vs. Jason W. Geist alias Joseph Graham, and Frank S. Richardson. Conspiracy. Witnesses: J. E. Earnshaw, W. T. Tyser, M. P., B. B. Earnshaw, J. Springmann, M. P., W. S. Cain, R. E. Weedon, M. P., H. A. Murray. A true bill, Cuneo H. Rudolph, foreman.

7

Arraignment.

Supreme Court of the District of Columbia.

WEDNESDAY, November 23, 1904.

The court resumes its session pursuant to adjournment.

Mr. Justice Wright, presiding.

* * * * *

UNITED STATES vs. JASON W. GEIST, alias JOSEPH GRAHAM, and FRANK S. RICHARDSON.	}	No. 24519. Indicted for Conspiracy.
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Come as well the attorney of the United States as the defendants in proper person in custody of the warden of the United States jail in and for the district of Columbia; and, thereupon, the defendants being arraigned upon the indictment, they each plead thereto not guilty and for trial put themselves upon the country and the attorney of the United States doth the like. *The prosecution abandoned the first count and went to the jury on the second count of the indictment Memoranda.*

February 27, 1905.—Jury sworn and respite from day to day until—

March 3, 1905.—Verdict, guilty each, *on the second count.*

8

Motion in Arrest of Judgment.

Filed in Open Court Mar. 9, 1905. J. R. Young, Clerk.

In the Supreme Court of the District of Columbia.

THE UNITED STATES vs. JASON W. GEIST, alias GRAHAM, and FRANK S. Richardson.	}	Criminal. No. 24519.
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Now come the defendants, by their attorneys, and move the court to arrest the judgment on the verdict in the above entitled cause, for the following, among other reasons:—

1. Because the indictment does not allege that there was any offense committed.
2. Because said indictment is defective and insufficient, in that the alleged offenses were not set out with sufficient certainty, completeness, precision, and definiteness, and that said indictment is too vague, indefinite, incomplete, and uncertain to charge in law a crime.
3. Because the indictment is fatally defective in other particulars.
4. Because the said indictment does not allege that the pretenses attempted to be set out were actually false.
5. The indictment no where alleges the falsity of the pretenses attempted to be set out.
6. Because the indictment was not sufficient to put the defendants on inquiry as to what they were expected to answer at the trial table.
7. Because there were many variances between the allegations in the indictment and the facts proved at the trial.
8. Because there is no allegation in the indictment that Frederick S. Young acted upon the representations attempted to be set out.
9. Because there is no averment or allegation in said count that Frederick S. Young did not know and had no means at hand by the use of which, and the exercise of due diligence, he could have ascertained the facts with reference to said transaction.
10. There is no allegation that Frederick S. Young was deceived by any act or thing done by the defendants, or anything said by the defendants.
11. There is no allegation or averment in the second count that Frederick S. Young was ignorant of the facts set out in said indictment as constituting the scheme to defraud.
12. There is no allegation of an intent to defraud.
13. The crime of conspiracy to defraud is not sufficiently averred.
14. There is no charge or averment of fraud in any one of the allegations of the second count.
15. The allegation "to cheat and defraud by false pretence" is a conclusion of law, and not a fact.
16. The second count is duplicitous.
17. The pretences are not set out.
18. Because of other reasons appearing on the face of the indictment and proceedings.

JAMES A. O'SHEA,
LEO P. HARLOW,
W. J. DAVIDSON,
Attorneys for Defendants.

10

Sentence, Appeal, &c.

Supreme Court of the District of Columbia.

FRIDAY, *March 31, 1905.*

The court resumes its session pursuant to adjournment, Mr. Justice Wright, presiding.

* * * * *

UNITED STATES

vs.

No. 21020. Convicted of
Conspiracy.

JASON W. GEIST, alias JOSEPH GRAHAM,
and Frank S. Richardson.

No. 24519. Convicted of
Conspiracy.

Come as well the attorney of the United States as the defendants in proper person in custody of the warden of the United States jail in and for the District of Columbia and by their attorneys Messrs. Harlow and O'Shea; whereupon the defendants' motion in arrest of judgment and motion for new trial coming on to be heard, and argued by counsel, it is considered by the court that said motions be and they hereby are overruled, and therèupon, it is demanded of the defendants what further they have to say why the sentence of the law should not be pronounced against them, and, they say nothing, except as they have already said; whereupon, it is considered by the court that for their said offence the defendants be taken by the warden aforesaid to said jail whence they came thence to the penitentiary (as designated by the Attorney General of the United States) there to be imprisoned and kept at labor for the period of two (2) years each, to take effect from and including the date of arrival at said penitentiary and each

11 pay a fine to the United States of ten thousand (\$10,000.) and in default of payment of said fine to stand committed further until paid ; and, thereupon, the attorneys for the defendants note an appeal to the Court of Appeals of the District of Columbia from the judgment of the court in this case ; whereupon the attorneys for the defendants move the court to fix the amount of the bond for costs on said appeal, which motion is granted, and said bond is fixed in the sum of one hundred dollars (\$100.) and the attorney of the United States in open court waives the issuance of a writ of citation ; and, thereupon, the defendants are remanded to jail to await further action in this case.

Memorandum.

April 26, 1905.—Appeal bond \$100. with W. W. Stewart as surety filed.

*Order Extending Time to File Transcript.***Supreme Court of the District of Columbia.****SATURDAY, September 30, 1905.**

The court resumes its session pursuant to adjournment, Mr. Chief Justice Clabaugh, presiding.

UNITED STATES vs. JASON W. GEIST, alias JOSEPH GRAHAM, and Frank S. Richardson.	}	No. 24519. Convicted of Conspiracy.
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Upon motion of the defendants by their attorneys Messrs. O'Shea and Harlow, it is by the court ordered that the time for filing the transcript of the record in this case in the Court of Appeals of the District of Columbia, be and the same is hereby extended to and including November 1, 1905.

*Order for Transcript of Record on Appeal.***Filed October 31, 1905.**

In the Supreme Court of the District of Columbia, Holding a Criminal Term.

THE UNITED STATES OF AMERICA vs. JASON W. GEIST and FRANK S. RICHARDSON.	}	Criminal. No. 24519.
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The clerk of the court will please prepare transcript of record in this case on appeal to the Court of Appeals and include therein the following:

1. Indictment.
2. Arraignment.
3. Verdict of jury.
4. Motion in arrest of judgment.
5. Order overruling motion.
6. Sentence.
7. Memorandum of appeal filed.
8. Order extending time to file transcript of record to November 1, 1905.
9. Order for transcript of record.

**W. J. DAVIDSON,
LEO P. HARLOW,
JAMES A. O'SHEA,
Attorneys for Defendants.**

- 13 Service accepted and notice waived.
Oct. 31, 1905.

D. W. BAKER,
U. S. Attorney.
J. S. L., S.

- 14 Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA, } ss :
District of Columbia, . }

I, John R. Young, clerk of the supreme court of the District of Columbia, hereby certify the foregoing pages, numbered from 1 to 13, inclusive, to be a true and correct transcript of the record, as per directions of counsel herein filed, copy of which is made part of this transcript in cause No. 24519 criminal, United States vs. Jason W. Geist, *et al.*, as the same remains upon the files and of record in said court.

In testimony whereof, I hereunto subscribe
Seal Supreme Court my name and affix the seal of said court, at
of the District of the city of Washington, in said District, this
Columbia. 1", day of November, A. D. 1905.

JOHN R. YOUNG, Clerk.

Endorsed on cover: District of Columbia supreme court. No. 1623. Jason W. Geist *et al.* appellants vs. United States. Court of Appeals, District of Columbia. Filed Nov. 1, 1905. Henry W. Hodges, clerk.